

Shephali

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
TESTAMENTARY AND INTESTATE JURISDICTION
CHAMBER SUMMONS NO. 86 OF 2018
IN
TESTAMENTARY PETITION NO. 851 OF 2017**

Chandrika Niranjan Kapadia	...Applicant
<i>In the matter between</i>	
Niranjan Javerilal Kapadia	...Petitioner
<i>And</i>	
Ishwarlal Karsandas Kapadia	...Deceased

Mrs Madhuri Joshi, i/b Kalpesh Joshi Associates, for the Applicant.
Mr S Shamim, i/b Shamim & Co., for the Intervenor.

CORAM: G.S. PATEL, J
DATED: 24th July 2018

PC:-

1. The Petition itself was filed by the Applicant's husband Niranjan for Letters of Administration *de bonis non* with a photocopy of the Will annexed to the property and credits of the deceased, one Ishwarlal Karsandas Kapadia. Letters of Administration to Prabhavati's estate were obtained by Niranjan's father, Javerilal. Then Niranjan brought this Petition in respect of parts of the estate that were not administered. Niranjan himself passed away on 3rd December 2017. He was survived by his widow, Chandrika (the Applicant) and their three children Mehul, Hemali and Payal.

2. The application today is to substitute Chandrika in Niranján's place. The application is opposed by Niranján's brother Sudhir Kapadia who says that he has filed a separate Chamber Summons himself. Between Niranján and Sudhir there were no disagreements. The fact that Sudhir does not fully trust Chandrika is no reason to disallow the present Chamber Summons for substitution. After all, Chandrika will succeed to Niranján's estate along with his other heirs. She is certainly entitled to represent his interest in this Petition. The Chamber Summons will have to be made absolute in terms of prayer clause (a).

3. Prayer (b) requests leave to serve citation by substituted service, i.e. by newspaper publication upon Kalpana Ratanchand Doshi, Darshana Ratanchand Doshi, Rekha Ratanchand Doshi and Alka Ratanchand Doshi. Their addresses are not known. The Affidavit in Support says that the service was attempted on their brother Shailesh. He refused to accept service of citation on their behalf. When requested for their address, Shailesh Doshi declined to furnish them. The address of Shailesh Doshi is known. He resides in Mumbai at 507, Shubh Sandesh Society 16 Hanraj Lane, Byculla, Mumbai 400 027.

4. Instead of granting an order as placed in prayer clause (b), I will direct a Court notice to be issued to Shailesh Doshi at his address in Byculla returnable in Court on 13th August 2018. The Court notice will specify that on that date Shailesh will personally remain present in Court or through his Advocates and will furnish the addresses of his sisters, Kalpana Ratanchand Doshi, Darshana Ratanchand Doshi, Rekha Ratanchand Doshi and Alka Ratanchand

Doshi. In addition to service through court, private service by Registered Post and by courier is permitted.

5. Further directions in the Petition will be passed on the next date.

6. List the matter on 13th August 2018.

(G. S. PATEL, J)